

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Robert John Mabbott

For: Transfer Materials

the specification of which:

- was filed on September 17, 1996 as Application No. 08/716360 and was amended on September 17, 1996.
- was described and claimed in International Application No. PCT /GB95/00601 filed on March 17, 1995

**SUPPLEMENTARY DECLARATION OF FACTS IN SUPPORT OF FILING ON
BEHALF OF OMITTED INVENTOR (37 CFR 1.47)**

This declaration is made as to the exact facts which are relied upon to establish the diligent effort made to secure the execution of the declaration by the omitted inventor for the above identified patent application before deposit thereof in the U.S. Patent and Trademark Office.

- Since signing on behalf of the omitted inventor is by a person or entity showing a sufficient proprietary interest this declaration also recites facts as to why this action was necessary to preserve the rights of the parties or to prevent irreparable damage (if applicable).

This declaration is being made by the available person having first-hand knowledge of the facts recited therein.

Identification of Person Making this Declaration of Facts:

ALAN BRIAN PORTER

Name of declarant

Whitethorn, Warden Road, Ickwell, Biggleswade, Bedfordshire SG18 9EL, England

Address of declarant

1. I am the same ALAN BRIAN PORTER who made the Declaration dated 19 March 1997 filed in respect of this application. The following statement of facts and the accompanying exhibits are made and given from my own firsthand knowledge.
2. In August 1995 efforts were made to obtain the signature of Robert John Mabbott (hereinafter "Mabbott") to the prior application Serial No. 08/454334. He refused to sign that application (as has already been documented) and shortly afterwards left the company ISO Developments Ltd. ("ISO").
3. In November 1995 I learnt that Mabbott was believed to be living in Palma, Majorca, an island off the Spanish mainland. I instructed a Spanish lawyer Miss Silvia Rodriguez in Palma to try to find Mabbott. A copy of my letter to Miss Rodriguez dated 22 November 1995 is attached as Exhibit 1. My wish to establish his whereabouts at that time was because he owed me personally a substantial sum of money (£80,000). Attached as Exhibit 2 is a second letter dated 28 November 1995 to Miss Rodriguez.
4. In December 1995 I learnt that Mabbott was operating from an office in Palma. Exhibit 3 is a copy of a fax message to Miss Rodriguez dated 19.12.95 giving her details of this. However, Miss Rodriguez was not able to trace Mabbott at this address or elsewhere on the island. A private detective was employed, but had no success, as stated in Exhibit 5 below.
5. In January 1996 I consulted my UK lawyers, Balderston Warren, for advice as to how to show that I had taken all reasonable steps to trace Mabbott. A copy of their letter dated

19 January 1996 is attached as Exhibit 4.

6. On 1 February 1996 I spoke by telephone to Miss Rodriguez and sent her a letter, attached as Exhibit 5. This referred to the abortive efforts of the private detective over a period of 3 to 4 weeks. In this letter I instructed Miss Rodriguez to place an advertisement in the English language newspaper published in Majorca, as my UK solicitors had recommended.
7. Also as recommended by Balderston Warren I wrote to Mabbott's parents in Bedford. A copy of my letter to them dated 1 February 1996 is attached as Exhibit 6. At the same time I wrote again to Mabbott himself at his last known UK address, namely 3 Lincoln Court, Tennyson Road, Bedford. A copy of this letter dated 1 February 1996 is attached as Exhibit 7. The letter was sent by "Recorded Delivery". Exhibit 8 is a copy of the envelope for that letter, franked 1 February 1996 and returned by the postal authorities on 14 February 1996 marked "not called for".
8. An advertisement was placed in a newspaper local to Mabbott's address in Bedford. Exhibit 9 is a copy of that advertisement in "Bedfordshire on Sunday" dated 4 February 1996. The message is in the first column.
9. An advertisement was also placed in one of the UK's national newspapers "The Daily Telegraph". A copy of the advertisement in the paper published on 3 February 1996 is attached as Exhibit 10. The message is in the "Personal" column.
10. Exhibit 11 is a copy of the fax transmission report to the Majorcan newspaper dated 1 February 1996 and the text of the advertisement.
11. The advertisement in "The Daily Telegraph" did produce one response, from a Mrs Elizabeth Dobbie, in Majorca. Exhibit 12 is a copy of her facsimile letter to me dated 5 February 1996. This has faded with time but gave an address for Mabbott's parents in Bedford.

Exhibit 13 is a copy of my reply to Mrs Dobbie dated 6 February 1996. In this letter I refer also to a telephone call from Mabbott's sister, Mrs Knight. Her son, in Germany, was understood to be seeing Mabbott that week and would pass on my message. Whether that meeting took place I know not. In any event I received no further communication from any of the parties involved.

12. By the end of February 1996 I had exhausted all the avenues available to me to contact Mabbott, and had followed through all the recommendations of my lawyers Balderston Warren.

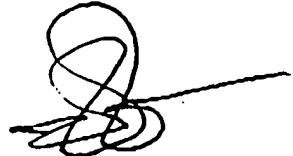
In September 1996 when it became necessary to enter the national phase of the International patent application PCT/GB95/00601 nothing had changed. I had received no further communication from any of my contacts. I had concluded that Mabbott had deliberately tried to "disappear", perhaps not surprisingly in view of the large sum of money owed to me, and that the members of his family were not able or willing to be cooperative. Believe me, if I had been able to trace him or had any idea as to his whereabouts I would have pursued him.

At a meeting on 5 September 1996 with my patent attorney Roger Thomson of W P Thompson & Co he explained to me the requirement that diligent efforts must be made to obtain the signature of the inventor to the application papers for the USA. I explained the circumstances to him and it was concluded that in view of the massive effort made to trace Mabbott just a few months earlier it would be inappropriate to go through all those procedures again, particularly in view of the fact that it was reasonable to draw the conclusion, from the facts, that Mabbott was taking positive measures not to be found.

* * *

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

A handwritten signature in black ink, appearing to be a stylized 'J' or a similar character, followed by a horizontal line and a short vertical line extending downwards.

Signature of Declarant

3 August 1999

Date